

# **EXHIBIT D**



**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

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IN RE PHARMACEUTICAL INDUSTRY	)	MDL No. 1456
AVERAGE WHOLESALE PRICE	)	
LITIGATION	)	Civil Action No. 01-12257-PBS
	)	
THIS DOCUMENT RELATES TO:	)	Judge Patti B. Saris
ALL ACTIONS	)	Chief Magistrate Judge Marianne B. Bowler
	)	

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**RESPONSE AND OBJECTIONS OF SCHERING-PLough CORPORATION AND  
WARRICK PHARMACEUTICALS CORPORATION TO  
PLAINTIFFS' REQUESTS FOR PRODUCTION  
OF DOCUMENTS TO ALL DEFENDANTS RELATING TO IMS DATA**

Pursuant to Rules 26 and 34 of the Federal Rules of Civil Procedure and the Local Rules of the United States District Court for the District of Massachusetts Schering-Plough Corporation (“Schering”) and Warrick Pharmaceuticals Corporation (“Warrick”) hereby respond to Plaintiffs’ Requests for Production of Documents to All Defendants Relating to IMS Data (the “Requests”) as follows:

**GENERAL OBJECTIONS**

Schering and Warrick expressly incorporate by reference all “General Objections” set forth in its Responses and Objections to Plaintiffs’ Omnibus Requests for Production and Interrogatories, which apply to the Requests in their entirety, including the Definitions, Instructions, and Relevant Time Period. In addition, Schering and Warrick object to the Requests on the grounds that Plaintiffs have already exceeded their limit of two sets of requests for the production of documents and have neither requested nor received an order from the Court permitting additional requests, pursuant to Local Rule 26.1. Furthermore, Schering’s and Warrick’s response to the Requests is made without waiving the right to object to the



competency, materiality, relevancy or admissibility of any data produced in response to the Requests. Any Specific Objections provided below are made in addition to these General Objections, and failure to reiterate a General Objection below does not constitute a waiver or limitation of that or any other objection.

### **SPECIFIC RESPONSES TO REQUESTS FOR PRODUCTION**

#### **REQUEST FOR PRODUCTION NO. 1:**

With respect to the drugs on Exhibit A, the following IMS reports or data for each such drug:

- (a) National Prescription Audit (NPA, or NPA Plus)
  - Timeframe: Monthly
  - Data Elements: TRX, Extended Units TRX, NRX, Dollars
  - By Form (*e.g.*, tablets, capsules, injectable, etc.)
  - By Strength (*e.g.*, 15 mg, 30 mg, etc.)
- (b) National Sales Perspective (previously the Retail and Provider Perspective):
  - Timeframe: Monthly
  - Data elements: Units, Extended Units, Dollars
  - By NDC or its equivalent
  - By Form
  - By Strength
- (c) Method of Payment Data (from the “MSA” product and/or the NPA NRX data):
  - Any reports or data
- (d) Generic Spectra
  - Any reports or data

#### **RESPONSE TO NO. 1:**

Schering and Warrick object to this Request on the grounds that it is overly broad, unduly burdensome, and vague. Schering and Warrick further object to the Request to the extent it seeks documents or information that are not within Schering’s or Warrick’s possession, custody, or control or are more appropriately sought from third parties to whom requests have been or may be directed. Finally, in furtherance of Schering’s and Warrick’s contractual obligations to



IMS Health Incorporated ("IMS"), Schering and Warrick object to the production of any data in response to Request No. 1, until such time as IMS consents to the production of such data or any motion for a protective order filed by IMS is denied.

By attorneys,

/s/ Eric P. Christofferson

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*Attorneys for Schering-Plough Corporation and  
Warrick Pharmaceuticals Corporation*

Dated: August 18, 2005



**CERTIFICATE OF SERVICE**

I hereby certify that on August 18, 2005, I caused a true and correct copy of the foregoing to be served on all counsel of record by electronic service pursuant to Case Management Order No. 2 entered by the Honorable Patti B. Saris in MDL 1456.

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/s/ Eric P. Christofferson  
Eric P. Christofferson